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10/720,066

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Christoph Klukowski

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EXAMINER

BOES, TERENCE

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/720,066	Applicant(s) KLUKOWSKI ET AL.	
	Examiner Terence Boes	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08/02/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 29-56 is/are pending in the application.
- 4a) Of the above claim(s) 37-40, 42-49 and 54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-36, 41, 50-53, 55 and 56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Request for Continued Examination**

1. The request filed on 08/02/2007 for a Continued Examination (RCE) is accepted and a continued prosecution application has been established. An action on the RCE follows.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 50 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 50, lines 5-7 recites "...said engagement elements overlap at least an edge of said shell unit extending in said axial direction, and/or engage at least one guidance slot...", rendering the claim indefinite. Use of the phrase "and/or" renders the claim unclear. Is applicant claiming both limitations before and after the phrase "and/or", or rather, is applicant merely claiming one of the limitations?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 29-36, 41, 50-53, and 55, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Manwaring et al. US 6,419,269.

Manwaring et al. disclose:

- a steering spindle (22);
- a shell unit housing said steering spindle (28);
- a console unit (see figure 3) having at least one side wall (40, 46) which extends in a lateral direction along said shell unit, said shell unit being supported by said at least one side wall (see figure 1), said console unit being fixed to a chassis (C3/L25-35);
- a securement device (54, 94, 92, 110, 56, 86, 82, 84) operable between an engaged state and a disengaged state,
- said securement device including a plurality of securing elements (54, 94, 92, 110, 56, 86, 82, 84),
- a tension bolt (54) penetrating openings in said shell unit and in said at least one side wall (see figure 2), wherein said shell unit, said console unit, said plurality of securing elements and said tension bolt have a structure and are arranged such that when said securement device is in said engaged state, said shell unit is unadjustably coupled with said console unit by said securing elements engaging one another, and when said securement device is in said disengaged state, said shell unit is adjustable relative to said console unit in at least one adjustment direction (C4/L53-55),

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- tilting part (82) supported so as to be displaceable relative to a first one of said shell unit and said at least one side wall in one of said at least one adjustment direction, and so as to be nondisplaceable relative to a second one of said shell unit and said at least one side wall in said one of said at least one adjustment direction (tilting part can be displaceable or nondisplaceable depending on position of tension bolt 54),
- wherein one of (a) said tilting part and (b) said first one of said shell unit and said at least one side wall includes clamping edges (edges and faces of 86 and two opposing protrusions), and the other of (a) said tilting part and (b) said first one of said shell unit and said at least one side wall includes clamping faces (see fig. 2, 88, 48)
- wherein said shell unit, said console unit and said tilting part have a structure and are arranged such that deformation of said steering column in said one of said at least one adjustment direction results in said tilting part being torqued by said second one of said shell unit and said at least one side wall relative to said first one of said shell unit and said at least one side wall such that said clamping edges dig into said clamping faces so as to inhibit a displacement of said tilting part in said one of said at least one adjustment direction (C4/L1-10, furthermore, while features of an apparatus may be recited either structurally or functionally, claims directed to >an< apparatus must be distinguished from the prior art in terms of

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structure rather than function. Therefore, claim 29 is rejected since all claim limitations have been met as disclosed above (see MPEP 2114).

- wherein said tilting part and said second one of said shell unit and said at least one side wall are connected via at least one engagement element (86 and two opposing protrusions) and at least two engagement points spaced apart from one another.
- wherein said tilting part includes said clamping edges (edges of 82 and two opposed protrusions), and said first one of said shell unit and said at least one side wall includes said clamping faces (front face of 42, see fig. 2).
- wherein said one of said at least one adjustment direction is a height direction perpendicular to a longitudinal axis of said steering column (see vertical slot 42 oriented vertically).
- wherein said at least one adjustment direction in which said shell unit is adjustable relative to said console unit includes an axial direction of said steering column and a height direction perpendicular to a longitudinal axis of said steering column (see axial slot 34 in fig. 2).
- wherein said tilting part is supported so as to be nondisplaceable relative to said second one of said shell unit and said at least one side wall in one of said axial direction and said height direction, and so as to be displaceable relative to said second one of said shell unit and said at least one side wall in the other of said axial direction and said height direction

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(tilting part can be displaceable or nondisplaceable in height and axial directions).

- wherein said tilting part is supported so as to be nondisplaceable relative to said shell unit in a height direction perpendicular to a longitudinal axis of said steering column, and so as to be displaceable relative to said at least one side wall in said height direction (tilting part can be displaceable or nondisplaceable in height and axial directions).
- wherein said tilting part has a central opening which is penetrated by said tension bolt (see figure 2).
- wherein said tilting part is positioned at a surface of one of said at least one side wall facing away from said shell unit (see figures 2 and 4-6).
- wherein said tilting part further comprises: engagement elements positioned at two opposite sides of said one of said at least one side wall in an axial direction of said steering column, said engagement elements extending from said tilting part toward said shell unit, wherein said engagement elements overlap at least an edge of said shell unit extending in said axial direction, and/or engage at least one guidance slot in said shell unit extending in said axial direction (see figure 2, C4/L1-10).
- wherein said tilting part further comprises: tilting ledges (160, 162) overlapping said sides of said one of said at least one side wall, said engagement elements being positioned on said tilting ledges, wherein said tilting ledges comprise said clamping edges, and wherein said sides of

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said one of said at least one side wall comprise said clamping faces (see figure 2, C4/L1-10).

- wherein said console unit comprises two side walls (46, 40), said shell unit being positioned between said two side walls (see figures 1 and 2).
- wherein said tension bolt penetrates openings in both of said side walls (see figure 2).
- a tensioning device (56) for mutually engaging said securing elements, said tensioning device being actuatable by a tension lever (56 is capable of being actuated by a tension lever i.e. a wrench).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 56, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Manwaring et al. US 6,419,269 in view of Turner et al. GB 2 092 967.

Manwaring et al. disclose all of the claimed subject matter as described above. Manwaring et al. do not disclose a first plurality of plates connected with said shell unit; and a second plurality of plates connected with said console unit, said plates of said first and second plurality of plates having friction faces and being interdigitated with each other.



Turner et al. teach a first plurality of plates (21a, 22a) connected with said shell unit; and a second plurality of plates (21b, 22b) connected with said console unit, said plates of said first and second plurality of plates having friction faces (Pg 2/C1/L50-65) and being interdigitated with each other for the purpose of increasing the holding frictional force to prevent a driver from moving a steering column (Pg 2/C1/L50-65).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the teachings of Manwaring et al. and provide a first plurality of plates connected with said shell unit; and a second plurality of plates connected with said console unit, said plates of said first and second plurality of plates having friction faces and being interdigitated with each other, as taught by Turner et al., for the purpose of increasing the holding frictional force to prevent a driver from moving a steering column.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 29-56 have been considered but are not persuasive.

a. Applicant argues "Manwaring does not disclose a tilting part supported so as to be displaceable relative to a first one of the shell unit and the at least one side wall in one of the at least one adjustment direction, and so as to be nondisplaceable relative to a second one of the shell unit and the at least one side wall in the one of the at least one adjustment direction, as required by independent claim 29."

In response, Manwaring discloses a tilting part (82) that is capable of being both displaceable and nondisplaceable through the operation of the mechanism. For example, when the mechanism is disengaged (unlocked), the tilting part (82) is displaceable, and when the mechanism is engaged (locked), the tilting part is also nondisplaceable. So the tilting part is capable of being both displaceable and nondisplaceable in that the tilting part can perform both functions independently.

- b. Applicant argues "Manwaring does not disclose a tilting part having a structure such that when the steering column is deformed in an adjustment direction, the tilting part is torqued such that clamping edge dig into clamping faces so as to inhibit a displacement of the tilting part in the adjustment direction, as required by independent claim 29".

In response, while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. Therefore, claim 29 is rejected since all claim limitations have been met as disclosed above (see MPEP 2114).

Furthermore, Manwaring discloses a tilting part (82) having a structure such that when the steering column is deformed in an adjustment direction, the tilting part is torqued such that clamping edge dig into clamping faces so as to inhibit a displacement of the tilting part in the

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adjustment direction, as required by independent claim 29 (see figures 2, and 4-6, C4/L1-10).

Furthermore, the recitation "...when said steering column is deformed...", renders the claim indefinite. Use of the term "when" renders the claim unclear. The term "when" presumes an action (i.e. deformation of a steering column) to take place but no where previously in the claim is such action said to actually occur, or will occur.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terence Boes whose telephone number is (571) 272-4898. The examiner can normally be reached on Monday - Friday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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8/24/07



RICHARD RIDLEY  
SUPERVISORY PATENT EXAMINER